February 18, 2016

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: *Connect America Fund,* WC Docket No. 10-90

Dear Ms. Dortch:

On Wednesday, February 17, 2016, the undersigned on behalf of NTCA–The Rural Broadband Association ("NTCA") and Larry Thompson, Chief Executive Officer of Vantage Point Solutions, held meetings with Stephanie Weiner, legal advisor to Chairman Tom Wheeler; Amy Bender, legal advisor to Commissioner Michael O'Rielly; Travis Litman, legal advisor to Commissioner Jessica Rosenworcel; and Carol Mattey and Joseph Sorresso of the Wireline Competition Bureau.

During the meetings, we discussed the need to ensure any final rules that may be adopted governing prospective limits on capital expenses eligible for recovery via federal Universal Service Fund ("USF") support are subject to reasonable provisions that reflect the diversity of circumstances in various study areas served by rural rate-of-return-regulated local exchange carriers ("RLECs"). For example, since such limits were first suggested by a collective group of rural association stakeholders in 2011 in the form of a Capital Budget Mechanism ("CBM"), NTCA and its allies have consistently recommended that any limits along the lines of the CBM must include the concept of a "streamlined waiver" to ensure that certain high-cost areas are not "cut off" for purposes of potential broadband advancement by virtue of a rule that does not reflect the realities of serving such areas. *See, e.g.*, Comments of NTCA, NECA, OPASTCO, and WTA and Concurring State Associations, WC Docket No. 10-90, *et al*. (filed April 18, 2011), at Appendix A ("As stated earlier, it is difficult to estimate the investment required in all situations, therefore a simple FCC safety valve waiver process must be in place. This safety valve waiver process must be streamlined, since delays would slow investment and thus delay broadband deployment."); *Ex Parte* Letter of Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, Federal Communications Commission ("Commission"), WC Docket No. 10-90, *et al*. (filed Dec. 16, 2013), at 13 (responding on behalf of NTCA, NECA, USTelecom, and WTA to staff questions with information, including notation of the need for a "waiver process" in the context of the CBM); *Ex Parte* Letter of Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, *et al*. (filed Oct. 31, 2014), at 1 (stating that the CBM must be "subject to reasonable opportunity for a waiver"); *Ex Parte* Letter of Larry Thompson, Chief Executive Officer, Vantage Point Solutions, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90 (filed Jan. 28, 2016), at 3 ("Vantage Point *Ex Parte* Letter").

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In the attached presentation, to the extent that such a streamlined waiver process is not already contemplated as part of any order consistent with the prior recommendation of the rural associations, we suggested a simple way in which such a waiver should be structured. Specifically, any RLEC that does not believe its total prior loop investment (as brought forward to current dollars) is reflective of the actual costs today of building a network in its study area should be permitted to submit engineering documents certified and stamped by a professional engineer showing what those actual costs are. The Commission would then use the information from those certified plans as the RLEC's "Total Loop Investment" in lieu of what the CBM or other prospective capital limits formula would generate. We noted that this waiver process would have no negative effect whatsoever on USF budgets, and that this estimate of Total Loop Investment is just the first step (albeit, an important one) in a multi-stage process that ultimately develops prospective carrier-specific investment budgets based upon "conditions on the ground." We also observed that such a streamlined waiver process is in fact essential to ensure that fast-moving reforms do not: (1) otherwise frustrate potential access to financing for networks needed to achieve buildout; and (2) will not undermine, if not preclude altogether, the ability of certain RLECs to plan for and deliver broadband throughout their study areas over a reasonable period of time and subject to all other applicable requirements.

In the meetings, we also discussed the fact that, after further review and analysis of the CBM proposals in recent months, NTCA recommends an adjustment to the inflationary index to be used in connection with any capital limits the Commission may adopt. Specifically, as noted by Vantage Point in a detailed letter filed several weeks ago, because most capital expenses incurred in connection with network deployment are labor-driven, any inflationary index used to bring past construction costs forward into current dollars should include a comparable labor cost component. *See* Vantage Point *Ex Parte* Letter, at 1-2. We urged the Commission to adopt in any final order the January 28 recommendation of Vantage Point with respect to use of such an index in any capital limits. We further noted that this adjustment should be made in addition to, and must not be considered in lieu of, any streamlined waiver process consistent with the long-standing recommendation of the rural associations, because a streamlined waiver process is essential to address potential circumstances that go beyond concerns about use of a proper inflationary index.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ *Michael R. Romano*
Michael R. Romano
Senior Vice President – Policy

Enclosure

cc: Stephanie Weiner
Amy Bender
Travis Litman
Carol Mattey
Joseph Sorresso

Estimating Total Loop Investment Accurately

February 17, 2016

VantagePoint

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Capital Budget Limits

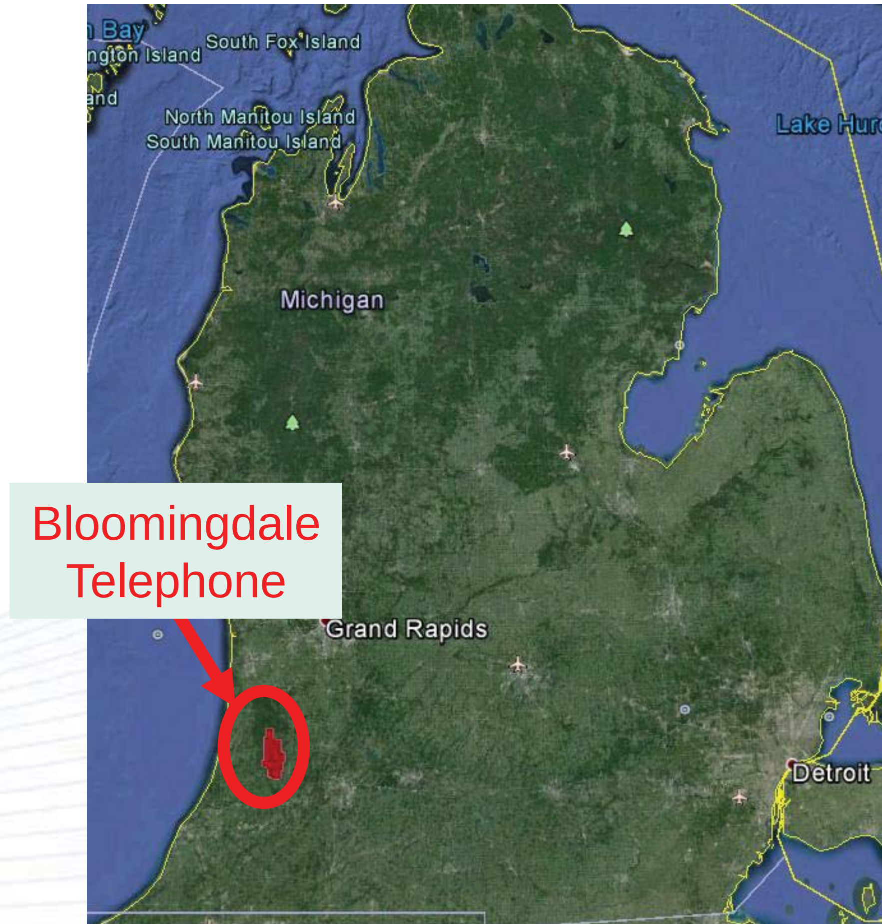
- Total Loop Investment (TLI) is intended to be an estimate of the cost to upgrade the company to broadband
  - TLI is determined by using inflating historical investment (Gross Plant) to current dollars
  - RLEC can invest the depreciated portion of the TLI (the TALE) over time
- TLI inflation factor must represent actual OSP construction inflation and other factors for prospective capital budget limits

Impact of TLI Errors

- If estimated TLI is too low, certain RLEC customers cannot be upgraded for acceptable minimum levels of broadband
- TLI could be low if
  - Inflation factor is lower than actual OSP inflation
  - Increased construction costs arise due to more underground utilities, new tribal requirements, add'l environmental requirements, new forests and parks, sprinkler systems, etc.

Example: Bloomingdale Telephone Company (BTC)

- Customers: 2,300
- Serving Area: 67 mi^2
- Age of OSP
  - Mainline: ~28 years
  - Drops: 28-48 years
- Primarily Rural
  - ~20% of customers in town
- 10/1 Broadband: 3%



TLI Recommendations

- Use an inflation factor that better estimates actual trends in OSP construction inflation
  - OSP construction is approximately 70% labor
- Also allow RLECs to use alternative method to determine TLI
  - TLI certified by Professional Engineer – Process similar to RUS, ARRA projects, and state grants
  - Certified TLI can be provided to State Commission and USAC/FCC
- Both recommendations should be adopted to ensure acceptable minimum levels of broadband will reach consumers
- Will have no USF budget impact – simply defines what future investment levels may be *eligible* for recovery